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TAGS: MCAP PARM PREL

SUBJECT: CONVENTION ON CONVENTIONAL WEAPONS: REPORT ON AUG 28-SEPT 6 MEETING OF GOVERNMENTAL EXPERTS

REF: A. STATE 132511

¶B. STATE 143153 (NOTAL)

¶C. MOSCOW 9672 (NOTAL)

Classified By: CDA Judith Chammas. Reason: E.O. 12958 1.4(d)

¶1. (C) Summary: The August 28-September 6 session of the Group of Governmental experts of the states parties to the Convention on Conventional Weapons (CCW), which also served as the final preparatory committee for the November Review Conference of CCW states parties, spent a significant amount of time preparing documents for the November CCW RevCon, but the main issue remained efforts to reach consensus on a possible new protocol on Mines Other than Anti-Personnel Mines (MOTAPM)/anti-vehicle mines. The U.S. delegation provided all key participants with a compromise proposal; early signs from Russia, China and Pakistan were not promising, but the text remains in play. Spurred by the Lebanon war, the Explosive Remnants of War (ERW) discussions focused on cluster munitions. Several delegations and NGOs proposed negotiations cluster on munitions. End Summary.

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MOTAPM  
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¶2. (C) The U.S. began the session with an all-out effort to persuade other delegations to accept a compromise ) a MOTAPM protocol containing optional annexes on detectability and limitations on active life to which states parties to the protocol could choose to adhere or not. The delegation held a series of informal discussions with supporters of legally binding provisions on detectability and active life (including various EU members and the EU troika), as well as with states such as Russia, China, and Pakistan that have objected to an instrument along those lines. First reactions to the U.S. compromise were reserved on all sides, but no one rejected the concept out of hand, and most promised to consider it. Meanwhile the MOTAPM coordinator, Amb. Paranhos of Brazil, consulted bilaterally and in small groups to discuss both the general concept of a protocol with optional annexes and the draft MOTAPM & set of provisions<sup>8</sup> he had circulated, which had left these key provisions blank. Paranhos pointed out that there were three options available: (a) including legally binding provisions on detectability and active life in the protocol, (b) an approach with optional legally binding annexes, and (c) a &best practices<sup>8</sup> approach, which would merely include guidelines. He made clear that he considered that only the middle option (along the lines of the U.S.-drafted compromise) had a chance of achieving consensus.

¶3. (C) By the end of the session positions on both sides seemed to have hardened. The supporters of option (a),

especially within the EU, faced with no sign of movement from China or Russia, formally requested insertion into the main text of legally binding provisions drawn from the previous coordinator's November 2005 text, although they did not formally reject the possibility of a compromise. Some in the EU, however, seemed to believe that no agreement was preferable to a compromise with optional annexes. Russia, China, Pakistan and Belarus made clear to us privately that their positions for this meeting were firm, but that they would consider the compromise option (b) subsequently in capitals (but Russian military reps disagreed). Publicly, Russia and others repeatedly indicated that they could accept only a protocol with non-binding &best practices<sup>8</sup> on detectability and active life. Russia read out language along those lines, and Pakistan circulated a paper taking that position. While some states (e.g., Belarus) argued that more time was needed to consider all issues, the U.S. and the Netherlands made clear that the November RevCon was the end of the line; after five years, consideration it was time for CCW parties either to adopt a MOTAPM protocol or conclude that no agreement was possible. At the end of the meeting, Paranhos forwarded a consolidated text stating the three options noted in para 2, and including texts for options (a) and (b).

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#### Explosive Remnants of War (ERW)

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¶4. (U) Cluster munitions became the clear focus and source of contention within the ERW discussions during this session of the GGE. Several states and NGOs made presentations on cluster munitions. The discussions focused on discrimination, proportionality, the failure rate of cluster munitions, and the impact of cluster munitions that became ERW, particularly in Lebanon. The underlying issue is whether Protocol V to the CCW (on ERW) and international humanitarian law in general sufficiently already address the appropriate use of cluster munitions or whether a new instrument is needed in regard to this specific munition.

¶5. (U) Austria, the Holy See, Ireland, Mexico, New Zealand and Sweden proposed that the RevCon adopt a mandate for governmental experts to negotiate a protocol to restrict or ban cluster munitions. Sweden and Germany proposed governmental experts meetings to study &feasible precautions which could be taken with a view to improving the design of military laser systems in order to avoid the incidence of permanent blindness<sup>8</sup>. The EU proposed at a minimum extending the current mandate for discussion of ERW by governmental experts. The U.S. delegation opposed these efforts in bilateral contacts and in the plenary. It urged CCW state parties to instead focus on efforts to implement Protocol V on ERW, which will enter into force only in November. The U.S. proposed specifically the completion of the matrix for self-implementation of Protocol V.

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#### Compliance

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¶6. (C) After years of discussion of a CCW-wide &compliance mechanism<sup>8</sup> without agreement, French CD Amb. Rivasseau (the conference chairman) took over active coordination of the draft compliance text from erstwhile Coordinator Croatian Ambassador Markotic. In a series of side meetings with USDeL, Rivasseau agreed to accommodate all of the main U.S. objections to the draft and agreed that the text could be adopted as a RevCon decision rather than as a new amendment to the CCW, but he was unable to get all delegations to agree to a final text. As a result, the text that will go forward presents both the option of an amendment and the option of a decision. U.S., supported by Japan, China, Russia, and Pakistan, has firmly rejected the amendment approach but that approach is favored by the EU states and Mexico. Key objections to the text continued from Pakistan, which was not satisfied with a paragraph that calls on UN SYG to choose the expert if a state makes a request for an expert to review its compliance with its own obligations, or with language that would ensure that any party could ask for a copy of the final

report of the expert. While we had worked to ensure that the text would not allow a state to ask experts to opine on obligations of another state, Israel continued to express concern about any expert mechanism and, in any event, asked for further clarification of the language to ensure this. At the end of the meeting, Rivasseau distributed a paper stating that agreement had not yet been reached on this matter but that he believed it could be by or at the RevCon.

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Sponsorship  
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¶ 7. (U) The Swiss agreed that the Geneva International Center for Humanitarian Demining (GICHD) could manage a sponsorship program to permit less developed states to participate in CCW-related activities. Switzerland will provide the GICHD with funds for the administration of the program on the condition that only donor states and the UN Department of Disarmament Affairs (DDA) are members of the steering committee. The inclusion of the UN was a compromise between potential donor states and Switzerland, which wanted only donors on the committee, and the NAM, which wanted regional representation. A consensus draft decision on the sponsorship program was forwarded to the RevCon for approval. The program is voluntary and at the discretion of donor states, and, although the U.S. does not plan to participate, US del sees no compelling reasons to block consensus.

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Preparations for the November Review Conference  
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¶ 8. (SBU) From the U.S. perspective, the meeting spent an inordinate amount of time on preparations for the RevCon, in particular consideration of a draft Final Document/Final Declaration, which the delegation found repetitious and contentious. After long consultations with the U.S., Rivasseau agreed to streamline the document, deleting a reference to a 2011 RevCon and making clear that states could commit themselves to implementing only those protocols to which they are parties. In the end we expect that the Final Document will be overshadowed by whatever substantive results or failure emerge from the November RevCon.

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Comment  
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¶ 9. (C) With too many plenary meetings, the GGE dels made position statements multiple times, most of which had also been made during prior sessions. We told many other delegations that this is a costly and unnecessary process since the discussion on these topics has been exhausted. We stressed that we need to conclude the negotiations on MOTAPM in November and that that will complete the program of work on matters where consensus might be achieved. We see no further topic that would warrant discussion at this time. We therefore maintained that instead of six weeks of meetings in 2007, the November RevCon should agree to come back for one week to assess the situation in November 2007, including in that week all CCW-related meetings (the required meeting of states parties to Amended Protocol II on anti-personnel mines, the compliance meeting, and the meeting under the ERW protocol that enters into force in two months. This may be a tough sell and will have a political cost, since the natural inclination of many will be to continue the discussions in experts meetings and some of our allies will argue that continuing the discussion on ERW protects against this topic being pursued elsewhere. (Of course, since the U.S. is not yet a party to the ERW protocol, we will not be able to prevent parties to that protocol from convening additional meetings.)

CHAMMAS